

AN
A C C O U N T
OF THE
CURIOUS AND INTERESTING
T R I A L
OF

THOMAS HALL,
Late HABERDASHER on the South Bridge, Edinburgh,

Before the High Court of Justiciary,

In January and February 1789;

FOR
FRAUD AND WILFUL IMPOSITION,
In the Months of May, June, and July last.

CONTAINING,
The Indictment, Proof, and other Procedure,
WITH AN
Elegant Speech made by the PANNEL, Verdict of the Jury,
&c. &c.

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JAN 7 1920

P R E F A C E.

THE Editor flatters himself that the following Trial will not be thought uninteresting by the Public. To give every security and assistance to Commerce, and to render more conspicuous those Laws which immediately relate thereto, is the purport of the following Pages. And from the Opinion of the Court respecting the Relevancy of the Indictment, and the Informality of the Verdict, he trusts such a source of Information will be given, as will generally be deemed of some consequence and importance in a commercial Country. He begs permission to observe, that the whole of the Evidence was taken down *verbatim* when delivered; and the Address to the Court from the Pannel is printed from the the Manuscript, which Mr Hall has obligingly sent to the Editor for that purpose.

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THE
T R I A L
OF
T H O M A S H A L L.

THE Prisoner, THOMAS HALL, was brought from the prison into Court, at 10 o'clock in the morning of January 12. 1789, in a chair, with the usual guards behind him. He was clean, and elegantly dressed in a genteel brown coat, fancy vest, black sattin breeches, and white silk stockings, with his hair full dressed, and well powdered. His behaviour was becoming and manly.

The Judges, in their Justiciary robes, took their places on the bench, in the following order :

Lord JUSTICE-CLERK,

Lord HAILES, Lord STONEFIELD,

Lord ESKGROVE, Lord SWINTON.

Silence being proclaimed, the Clerk of Court ordered a macer to call Ilay Campbell, Esq; his Majesty's
A Advocate,

Advocate, for his Majesty's interest, against Thomas Hall, present prisoner in the tolbooth of Edinburgh; which being done with the usual forms and solemnities, the Lord Justice-Clerk ordered the prisoner to attend to the indictment then to be read.

The Clerk of Court accordingly read aloud the indictment as follows :

THOMAS HALL, present prisoner in the tolbooth of Edinburgh, YOU are indicted and accused at the instance of ILAY CAMPBELL, Esq; his Majesty's Advocate, for his Majesty's interest: THAT ALBEIT, by the laws of this and every other well-governed realm, FRAUD and WILFUL IMPOSITION, more especially when practised in order to obtain, by false or untrue pretences, the money, goods, wares, or merchandises of others, with an intention to cheat and defraud them of the same, are crimes of an heinous nature, and severely punishable: AND ALBEIT ALSO, by an act passed in the 30th year of George the Second, intituled, " An act for the more effectual punishment of persons who shall attain, or attempt to attain possession of goods or money, by false or untrue pretences, for preventing the unlawful pawning of goods, for the easy redemption of goods pawned, and for preventing gaming in public-houses by journeymen, labourers, servants, and apprentices;" which act proceeds upon the narrative, " That diverse evil-disposed persons, to support their profligate way of life, have, by various subtle stratagems, threats, and devices, fraudulently obtained diverse sums of money, goods, wares, and merchandises, to the great injury of industrious families, and to the manifest prejudice of trade and credit;" it is enacted, " That all persons who, knowingly and designedly, by false pretence or pretences, shall obtain from any person or persons, money, goods, wares, or merchandises, with
" intent

“ intent to cheat or defraud any person or persons of
 “ the same, shall be deemed offenders against law and
 “ the public peace; and the court before whom such
 “ offender or offenders shall be tried, shall, in case he,
 “ she, or they, be convicted of any of the said offences,
 “ order such offender or offenders to be fined and
 “ imprisoned, or to be put in the pillory, and publicly
 “ whipped, or to be transported, as soon as convenience may be, according to the laws made for the
 “ transportation of felons, to some of his Majesty’s
 “ colonies or plantations in America, for the term of
 “ seven years, as the court in which any such offender
 “ or offenders shall be convicted, shall think fit, and
 “ order:” YET TRUE IT IS, AND OF VERITY,
 that You the said Thomas Hall are guilty actor, or art
 and part, of the foresaid crimes: IN SO FAR AS
 You the said Thomas Hall having Yourself, or alongst
 with some other person or persons associated with You,
 taken a shop in South Bridge-street, Edinburgh, from
 John Brough upholsterer and cabinetmaker in Edinburgh,
 on the first day of the month of May 1788, or
 on some one or other of the days of that month, or
 of April immediately preceding, or June immediately
 following, You the said Thomas Hall, upon the 20th
 day of June 1788, or on one or other of the days of
 that month, or of May immediately preceding, or of
 July immediately following, on the false pretence of
 You and Your partner or partners, in a Company, under
 the firm of Jenkins and Company, carrying on a
 fair trade in the said shop as linen-draper and merchants,
 and of having occasion for goods to be employed in carrying
 on that trade, did obtain from Ebenezer Gairdner linen-draper
 and merchant in Edinburgh, at his warehouse or shop in the
 High-street of Edinburgh, several pieces of muslin or cotton,
 twenty-one muslin handkerchiefs, and several pieces of
 diaper or linen for table-cloths, the price charged

for the said articles being L. 46 : 8 : 3 $\frac{3}{4}$ Sterling, of which L. 18 were then paid ; and the said goods were, by Your desire, sent to the said shop in South Bridge-street aforesaid : AS ALSO, on the 26th day of June 1788, or on one or other of the days of that month, or of May immediately preceding, or of July immediately following, You the said Thomas Hall did, on the false pretence aforesaid, obtain from the said Ebenezer Gairdner, at his said warehouse or shop, several damask table-cloths, or pieces of damask for table-cloths, and some pieces of muslin or cotton, the price charged for the said goods being L. 38 : 1 : 3 ; for part of which You granted a promissory note for L. 36 : 9 : 0 dated 26th June 1788 ; and You also granted another promissory note, of the same date, for L. 27, being for part of the price of the former goods, both being under the firm of Jenkins and Company, payable three months after date, to Ebenezer Gairdner aforesaid ; and thereupon the said goods were, by your desire, sent to the said shop possessed by You in South Bridge-street aforesaid : AS ALSO, on the 31st day of July 1788, or on one or other of the days of that month, or of June immediately preceding, or of August immediately following, You the said Thomas Hall did, on the false pretence aforesaid, obtain from the said Ebenezer Gairdner, at his said warehouse or shop, several pieces of cambric, several pieces of linen for sheets, and several pieces of linen for table-cloths ; the price charged for which goods being L. 48 : 9 : 7, L. 20 thereof were then paid, and the remainder you promised to pay in a few days thereafter ; and thereupon the said goods were sent to the said shop in South Bridge-street aforesaid ; the said goods, of which You got possession at the three different periods aforesaid, having been obtained from, and the said promissory notes having been granted to, the said Ebenezer Gairdner, by You the said Thomas Hall, with an intention to

to impose upon and to cheat and defraud him of part of the said goods, or of their price: **AND FURTHER**, You the said Thomas Hall, on the 31st day of July 1788, or on one or other of the days of that month, or of June immediately preceding, or of August immediately following, did, on the false pretence aforesaid, obtain from Messrs Jacksons and Company, linen-drapers and merchants in Edinburgh, at their shop in South Bridge-street, Edinburgh, a number of pieces of cambric; the price charged for the said goods being L. 44 : 4 : 6½, and 17 s. 6¼d. being deducted as discount, you granted a promissory note for L. 43, 7 s. dated 4th August 1788, under the firm of Jenkins and Co. payable one month after date to Messrs Jacksons and Company; and thereupon the said goods were sent to the said shop possessed by You in South Bridge-street aforesaid; the said goods having been obtained from, and the said promissory note having been granted to, the said Messrs Jacksons and Company, by You the said Thomas Hall, with an intention to impose upon and to cheat and defraud them of the said goods, or their price: **AND FURTHER**, upon the 4th day of the month of June 1788, or on one or other of the days of that month, or of May immediately preceding, or of July immediately following, You the said Thomas Hall did, on the false pretence of purchasing goods for Yourself and another person, who were in a few days thereafter to open and keep a shop in the South Bridge-street of Edinburgh, and to carry on a fair trade there in company, obtain from James Reid and Company linen or calico printers at Gorgie, at their printfield or warehouse at Gorgie, in the parish of St Cuthbert's, and shire of Edinburgh, several pieces of printed calicoes, and six dozen napkins; the price charged for which goods was L. 96 : 17 : 9; **AS ALSO**, on one or other of the days of June, July, or August 1788, You the said Thomas Hall, on the false pretence of carrying

ing on a fair trade in the said shop, as partner of a company of linen-drapers or merchants, and of having occasion for goods for carrying on that trade, did obtain from the said James Reid and Company, at their said warehouse or printfield, a number of pieces of printed calicoes; the price charged for which amounted to L. 122:15:7; all which goods, thus obtained by You the said Thomas Hall, at different times, from the said James Reid and Company, were sent to the said shop in South Bridge-street of Edinburgh aforesaid; part of their price being paid by You; and You having also, on that account, granted a bill for L. 39, 12s. 6d. dated 7th June 1788, accepted *T. Hall, for Self and Co.* payable in three months to James Reid and Company, and a promissory note for L. 50, dated 12th August, payable one month after date; which goods thus got possession of by You at different times, were obtained from, and the said bill and promissory note were granted to, the said James Reid and Company, by You the said Thomas Hall, with an intention to impose upon and to cheat and defraud them of part of the said goods, or their price: **AND FURTHER**, upon the 28th day of June 1788, or on one or other of the days of that month, or of May immediately preceding, or of July immediately following, You the said Thomas Hall, on the false pretences of carrying on a fair trade in the said shop, as a partner of Jenkins and Company, and of You and Your partner's having received an order for some particular kinds of goods which You expected, but which had not then arrived, You applied to Gibson and Company, haberdashers and merchants in Edinburgh, and obtained from them, at their shop in North Bridge-street, Edinburgh, a number of pieces of cambric, and a number of pieces of muslin, the price charged for the said goods being L. 54:0:7½, part of which You then paid, and also accepted a bill under the firm of Jenkins and Company,
for

for L. 30, payable in three months to Gibson and Company; and thereupon the said goods were sent to the said shop possessed by You in South Bridge-street aforesaid: AS ALSO, on the 4th day of July 1788, or on one or other of the days of that month, or of June immediately preceding, or of August immediately following, You, the said Thomas Hall, on the false pretence of having occasion for goods for carrying on the business of Jenkins and Company, again applied to the said Gibson and Company, and obtained from them, at their said shop, several pieces of muslin or cotton, and several pieces of cambric; the price charged for the said articles being L. 43 : 18 : 9³/₄, part of which you then paid, and accepted a bill, under the firm of Jenkins and Co. for L. 22, payable three months after date to Gibson and Co.; and thereupon the said goods were sent to the said shop in South Bridge-street: AS ALSO, on the 30th day of August 1788, or on one or other of the days of that month, or of July immediately preceding, or of September immediately following, You, the said Thomas Hall, again, on the false pretence aforesaid, applied to the said Gibson and Co. and obtained from them, at their said shop, several pieces of cambric, several pieces of muslin or cotton, a piece of sattin, two pieces of black silk, and 54 pocket handkerchiefs; the price charged for the said articles being L. 51 : 9 : 6; in payment of which You then gave them a draught upon a banking-house for L. 20, and promised to pay the rest of the price in the beginning of the week immediately following; and William Gibson, one of the partners of Gibson and Co. having, on looking at the draught, perceived that, in place of its bearing date the day it was granted, being the 30th of August, it bore date the 1st of September, he sent after You, and having got the date altered, received payment of the draught on the same day that it was granted; and the
said

said goods were thereupon sent to the said shop in South Bridge-street: The said goods, which at these different periods You thus got possession of, having been obtained from the said Gibson and Co. and the said bills having been granted to them by You, the said Thomas Hall, with an intention to impose upon and to cheat and defraud them of part of the said goods, or their price: And You, the said Thomas Hall, and the person whom You called Jenkins, and gave out to be Your partner, having, late on the evening of the said 30th day of August, or early on the morning of the 1st day of September, both in the year 1788, or upon one or other of the nights or days of the said months, or of the month of July immediately preceding, or October immediately following, absconded and fled this country, or disappeared; and having packed up the goods fraudfully obtained by You, as before mentioned, or part thereof, You, the said Thomas Hall, carried, or caused the same to be carried away out of this country, with an intention to defraud the several persons before named thereof, or of their values; and being recently followed, You was thereafter apprehended, and part of the foresaid goods recovered, with a large chest or trunk covered with black leather, a common hair-trunk of a lesser size, and two small boxes or chests, in which the said goods had been carried off: That after You had so fled or disappeared, and upon the 2d day of September 1788, or upon one or other of the days of that month, or of the month of August immediately preceding, or October immediately following, the said shop in South Bridge-street, which had been occupied by You and Your partner, having been entered into, in consequence of a warrant from one of the magistrates of Edinburgh, there were found therein, on the shelves, a number of paper or pasteboard cases, put up as if containing goods, and so marked and tied as to give them that appearance, but which, when
 examined,

examined, were found to be empty. And You, the said Thomas Hall, having been brought before, and examined by John Stewart, Esq; sheriff substitute of the shire of Edinburgh, upon the 12th day of the said month of September 1788, did emit a declaration, tending to show Your guilt in the premisses; which declaration, together with part of the goods of which You, the said Thomas Hall, fraudfully got possession, as above mentioned, viz. a damask table cloth, marked on the cover 5079, and of the honeysuckle pattern; another damask table cloth, marked 4600, also of the honeysuckle pattern; another ditto, 49, pattern Ceres at harvest; another ditto, 221, pattern Apollo or Harmony; another ditto, 5179, ditto pattern; another ditto, 5304, pattern tulip; another ditto, 5224, pattern peace and plenty; another ditto, 5304, pattern a tulip; another ditto, 5304, ditto pattern; another ditto, 5304, ditto pattern; another ditto, 5011, honeysuckle pattern; another ditto, 5174, small close star and border, being part of the goods so obtained by You from the said Ebenezer Gairdner; one piece of cambric, marked N° 492; another piece ditto, N° 495.; another ditto, N° 498.; another ditto, N° 509.; another ditto, N° 503. part of the goods so obtained from the said Mess Jacksons and Company; two pieces of printed calico, of red striped pattern, for bed-furniture, N° 950 sewed in the end of the one, and 967 sewed in the end of the other; two other pieces of printed calico, blue and buff, the sewed number in the end of the one 843, and in the other 39.; one piece of printed calico, blue furniture, sewed N° 416.; one piece of calico for garments, of a running pattern, having James Reid and Co. stamped on the one end of it; two pieces of calico for garments, red and buff striped, both having James Reid and Co. stamped thereon; another piece of printed calico, of a running pattern, and two purple colours, sewed

N^o 138.; and five pieces of printed linen napkins, two pieces whereof spotted red and white, and three white with red borders, being part of the goods so obtained from the said James Reid and Co.; a piece of white striped muslin, six quarters broad, with a gold border at the end, having the following marks near to the said border, in red chalk, M^t 49 R. D. & Co.; another piece of white striped muslin, six quarters broad, having a small gold border at the end, and the following marks near to the said border, in red chalk, p a 7 s.; a piece of black armazeen, with yellow and red selvages; a piece of black mode, three quarters wide; a piece of black sattin, with striped white selvages; a piece of muslinet, with a ticket thereon, and numbered 73.; a piece of cambric, about eight yards, and numbered 196.; and a piece of demity, numbered 38, being part of the goods so obtained by You from the said William Gibson and Company: AND LIKEWISE, the aforesaid large trunk or chest, covered with black leather, the common hair-trunk, the two small chests or boxes, before mentioned, which contained the goods which were recovered, and brought back, as aforesaid, the foresaid empty paper or paste-board cases found in the said shop in South Bridge-street; and likewise the two promissory notes to the said Ebenezer Gairdner, the promissory note to the said Jacksons and Company, the bill and promissory note to the said James Reid and Company, the two bills to the said Gibson and Company above mentioned: AS ALSO, a letter or missive from you, the said Thomas Hall, delivered to the said John Brough, addressed to Mr Brookes, being to be used in evidence against you, will, for that purpose, be lodged with the Clerk of the High Court of Justiciary, before which You are to be tried, that You may have an opportunity of seeing the same. AT LEAST, times and places libelled, the several frauds above mentioned were committed,

committed, and the foresaid goods, wares, or merchandises, were, on false and untrue pretences, obtained from the said persons, with an intention of cheating and defrauding them, and the crime described in the above statute of George II. was committed; and You, the said Thomas Hall, are guilty actor, or art and part, of the said crime, or crimes. ALL WHICH, or part thereof, being found proven, by the verdict of an assize, before the Lord Justice-General, Lord Justice-Clerk, and Lords Commissioners of Justiciary, You, the said Thomas Hall, OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

THE Indictment being read, the Lord Justice-Clerk then addressed the Prisoner in the following words: Thomas Hall, you have heard the Indictment raised against you by his Majesty's Advocate, *are You, or are You not, Guilty* of the crimes charged. The Prisoner, standing up, answered, *Not Guilty*, my Lord.

The Lord Justice-Clerk then asked the Counsel for the Prisoner, if he had any objection why the said indictment should not be remitted to the knowledge of an Assize.

Upon which Mr Mackintosh, as counsel for the Panel, stated a number of objections, particularly that the statute libelled upon did not extend to Scotland; which objections were answered by Ilay Campbell, Esq; his Majesty's Advocate: And their Lordships, before answer, were pleased to order Informations to be given in by both parties, wishing at same time that they would be very particular in their Informations, that their judgement might be a rule in time coming, and adjourned the Court.

Thereafter, upon 6th February, Informations were given in by both parties, which were very elaborate, but unnecessary to be inserted in this trial; and their

Lordships having considered the same, they unanimously found, That the act of the 30th George II. did not extend to Scotland, but that the Indictment was relevant at common law; and adjourned the Court till Monday the 9th February.

Monday, 9th February 1789.

The Court having met, and the Pannel at the bar, the Solicitor-General, in a short speech, addressed the Court, and craved, That the Indictment might go to proof; and accordingly the following witnesses were examined, viz.

P R O O F.

William Gibson, linen-draper in Edinburgh, being solemnly sworn, purged of partial counsel, and examined, depones, That in June last Thomas Hall, the prisoner, called at his shop, and told him, that he had taken a shop upon the South Bridge, and had a quantity of goods coming from London, but that he was then in want of several articles, which he meant mostly to pay with ready money, and give the company's bill for the balance; upon which the deponent asked him if he could get any person to recommend him; and the prisoner told him that he was a stranger in town, but that he had some money-transactions with Sir William Forbes and Company, who would give a satisfactory account of him; and upon his calling at Sir William Forbes's, he was told by one of the clerks, that when they came down, they lodged a quantity of Bank of England notes with them, most of which then remained; that he thought them decent people, and that he would be safe enough in giving them credit; and upon his returning to his warehouse, he sold him goods
to

to the amount of L. 54 : 0 : 7½, for which he received goods to the amount of L. 2 : 17 : 7, cash 3 s. an order upon Sir William Forbes for L. 21, and a bill for L. 30, payable in three months. And upon the 4th day of July the prisoner again called upon the deponent, and told him, that he was very well pleased with the former goods, and wished to have some more upon the same terms; upon which he received goods to the amount of L. 43 : 18 : 9, part of which he then paid, and granted a bill, under the firm of Jenkins and Company, for L. 22, payable in three months; and upon the 30th August he purchased goods from the deponent to the amount of L. 51 : 9 : 6, and gave him a draught upon Sir William Forbes and Company for L. 20, and promised to pay the remainder next week: which draught the deponent observed to be dated the 1st of September, in place of the 30th August, and which he altered with some difficulty, saying, that it was only a day or two of difference, which could be of little consequence to Mr Gibson; all which goods consisted of muslins, lawns, &c. and were sent to Mr Hall's shop: That Mr Gibson frequently passed the shop of Jenkins and Company, and from its appearance had no suspicion of them, until Gray the tailor called upon him on the Monday following, and told him that they had made a moon-light flitting of it; which he found to be true upon his seeing the shop shut, and making inquiry at Dumbreck's, where he was informed by the driver, that they had gone to Haddington; and upon their arriving there, he heard Mr Hall inquire if there was not a box and trunk left there for them; to which the ostler answered, they had come there an hour or two before. From these circumstances, Mr Gibson, Mr Jackson, &c. immediately applied to Mr Williamson messenger, to see if he would follow them; which he accordingly did, by going off in the mail-coach that afternoon. On the Tuesday they applied

plied to the sheriff for a warrant to open the shop; which being done, he was sent for by Mr Brown writer, who informed him, that things were not so bad as was imagined, and wished to have one of his clerks to help him to make an inventory of the goods; and upon his going over, he found the shop to appearance quite full of goods; but upon their looking into them more narrowly, they found them only to be empty packages made up of pasteboard, and covered with blue paper, having labels of the different kinds of goods marked upon each. They likewise found some coarse printed cottons tied up in two bales upon the end of the counter, and an old pair of breeches and vest. And about eight days thereafter he received intelligence from Mr Williamson, that he had seized most of the goods in London, and found him at an inn in Holburn; that he was bringing Hall with him; and that the goods were coming by the waggon, which accordingly arrived in about three weeks thereafter; and the same being opened in the sheriff-clerk's office, in presence of Mr Gairdner, his son, and apprentice, he knew part of them to be the goods sold by him to Mr Hall from his shop-mark; and which being again shewn to him, depones to the identity of several of the articles; and several of the empty cases and boxes being likewise shewn to him, depones, That they are such as he saw in Mr Hall's shop, and believes them to be the same. Depones, That he has seen another gentleman and lady in the shop; but Hall was the person that transacted the business with him.

Archibald Gibson, son of the preceding witness, depones, That he knows the prisoner, and that upon the 28th June last he sold him goods to the amount of L. 54 : 0 : 7½, and received from him, in part payment thereof, so much cash, a small quantity of goods, and a bill for the balance, being L. 30, payable in three months; and also upon the 4th July, he sold him
goods

goods to the amount of L. 43 : 18 : 9, part of which he received in cash, and his bill for the balance, being L. 22 Sterling ; at this time he had occasion to see the shop of Jenkins and Company, which appeared to him pretty full of goods : and upon the 30th of August Mr Hall again called, and wanted to look at some Modes, saying, that he had an order from the country, and at that time bought goods to the amount of L. 51 : 9 : 6, for which he gave an order upon Sir William Forbes and Company for L. 20, and said that he would pay the remainder in a fortnight, begging that he would immediately send them over, as he had them to send to the country. Depones, That he was present at the opening of the trunks in the sheriff-clerk's office, and found some of the goods therein contained to be his property. And the same being now shown to him, depones, That they are the same which he sold to Mr Hall.

James Spittal, clerk to Mr Gibson, depones, and concurs with the preceding witnesses as to Hall's purchasing the goods upon the same days ; but could not say as to the particular amount. And the goods being now shown to him, depones, That they are the same goods which Mr Gibson sold to Mr Hall.

Ebenezer Gairdner, linen-draper in Edinburgh, depones, That the prisoner came to his wareroom upon the 20th June last, and asked a sight of his goods ; out of which he picked a parcel of muslins, cambrics, and table-linens, to the amount of L. 46, 8 s. which he sent to his shop, he having first paid L. 18 Sterling : That his lad, when he went to the shop with the goods, took a sharp look at it, and told his master, that it looked very well ; and upon the 26th June he came to the deponent's wareroom, and bought goods to the amount of L. 38 : 1 : 3, and granted him two bills, one for L. 36, 9 s. and the other for L. 27, payable in three months ; and upon the 31st of July he purchased another parcel of goods from the deponent, amounting

mounting to L. 48, for which he paid L. 20 in cash, and promised to pay the remainder in a month, but never came to pay either the bills or that balance; and Mr Hall is now debtor to him L. 95. He was not at home when Hall went off; but upon coming home, agreed to the measures Mr Gibson, &c. had taken in sending Williamson off: That he was in the sheriff-clerk's office when the trunks were opened, and saw a number of the goods which he had sold to Hall taken out of the trunks, and knew them to be his. And the same being now shown to him, depones, That they are the same; and his reason for knowing them is not only from his marks upon the outside, but also from the different patterns of the cloth.

David Aikman, apprentice to Mr Gairdner, depones and agrees with his master in every particular, as to the purchasing of the goods, and the time of delivering the same; but could not be certain as to the amount of the goods sold: That his master desired him when he carried the goods to Hall's shop to take a look at it; and having taken a very sharp look, he imagined that the shop was very well filled: That after Hall went off, he went into the shop along with Mr Brown when he opened it; and it then appeared, as formerly, well filled; but upon looking a little more narrowly into the business, they found the packages all empty, excepting some coarse prints. Depones to the identity of the goods upon the table, which his master sold to Mr Hall.

Robert Thomson, clerk to Mr Gairdner, depones to the dates, delivery, and identity of the goods, but could not be certain as to the amount: That when he delivered one of the parcels he saw Mr Hall's shop, and it appeared to be well filled.

James Jackson, linen-draper, depones, That he sold to Mr Hall a quantity of goods, amounting to L. 44, for which he granted his bill dated 4th August, and

and payable in three months, under the name of Jenkins and Company, and the contents of which is still due : And being shewn part of the goods, swears to the identity of the same : That upon his going into the shop, he was much disappointed from the appearance of it, to find nothing but empty packages, excepting some coarse printed cottons. Mr Jackson says, that the goods now in Court might, he thinks, sell for about L. 300.

Thomas Baird, apprentice to Mr Jackson, depones, That upon the 31st July his master sold to Mr Hall a quantity of goods, which he carried to Mr Hall's shop, which appeared to be full of other goods at that time. And the goods being shewn to him, swears to his master's mark, likewise to the bill granted for the amount.

Archibald Brown, writer in Edinburgh, depones, That he was employed, in consequence of a warrant from the Magistrates, to open and examine Mr Hall's shop on the 2d September, which he found locked, and got in by a window in the back part of the house, and found two parcels of printed linens bound up with ropes, and a great number of paper cases ranged upon the shelves, as if full of goods, which now being shewn to him, swears to the identity of the same, and that there was 74 of one kind, 28 of another, and 17 of another, all empty, although they had the appearance of being full : he found a long book, which he imagined might be a day-book, and a small memorandum-book, without any writing in either ; a few leaves appeared to be tore out of each of them ; another book, having all the leaves in it, was likewise found wrapt up as goods ; also some old shirts, &c. tied up, having the same appearance.

Alexander Logan town-officer depones, That he was employed by Mr Brown at the opening of Hall's
C shop,

shop, and saw some printed cloth, and a number of empty cases.

John Brough, cabinet-maker in Edinburgh, depones, That in the month of May last, he let a shop on the South Bridge to Mr Hall, for three years, to carry on business as a merchant, at the yearly rent of L. , and received one guinea of earnest, and in part payment of his rent.

Elisabeth Wright, North St David's Street, depones, That she knows the prisoner, and that he came to her house in April last, and took lodgings for himself and Mrs Hall, at L. 1, 1 s. per week : That they brought five trunks along with them, four of which they carried to their shop on the South Bridge, and the other remained in her house, where they continued till the 30th August, that they left town. Depones, She had some suspicion they were going off, from their getting in things which she thought they had no occasion for : That Mr Hall, on the Saturday night that they went off, sent a porter to her to let her know that they would not be in to supper that night. Depones, That she received four guineas for the first four weeks, but never received any more ; and that she had no suspicion of their body-cloaths being carried off.

Christian Gibson, servant to Mr Hall, depones, That she was hired by Mr Hall for half a year : That they had five trunks in their lodgings, four of which were sent over to their shop, and the other remained in their lodgings : That they always kept their bed-room locked, and they did not inform her of their going off. Depones, That she has seen people in their shop at times buying goods.

Thomas Gilmour, servant to Patrick Heron, depones, That on a Saturday night he carried the prisoner and his wife from Dumbreck's to Haddington : That he had one trunk when he set out, and had another

other very large one at Haddington, the largest ever he saw put upon a chaise; and they staid no longer at Haddington, than to get the horses changed: That they took four horses on to Dunbar, as the drivers refused to carry them on unless they took four.

Thomas Temple, hostler to Mr Fairbairn, depones, That upon the 22d or 23d August last, he saw the prisoner at Haddington, when he measured the springs of one of their post-chaises, saying, that he meant to take a jaunt, and wanted a trunk made: That he afterwards came to their house on the 30th August, in a chaise from Edinburgh: That a large trunk came to their house in a cart, on the Saturday morning, which they carried along with them in a chaise and four horses: That he never saw such a trunk put upon a chaise; and they staid no longer than they could get the chaise and horses ready.

William Sandie, servant to Mr Fairbairn, depones, That upon a Sunday morning he went with a gentleman and lady from Haddington to Dunbar, in a chaise and four; and that they went from Dunbar in another chaise and four; and the trunk in Court is the same trunk they had along with them.

George Williamson depones, That he was applied to on Monday 2d September, by Mess. Jackson and Company, to follow the prisoner, who, from the information they all already received, had discovered that he was gone the London road: Mr Williamson, in company with a Mr Wright, set out that afternoon in the mail-coach, and traced the prisoner upon the road through the different stages to London: That on his arrival there, he applied to have the warrant he had brought from Scotland backed by the magistrates: The necessary steps were then taken for recovering the goods, and Hall was likewise apprehended at George and Blue Boar Inn.

John Wright, clerk to Mr Jackson, depones, That

Hall purchased goods from his master to the amount of L. 44 : 4 : 6 $\frac{1}{2}$, for which he granted bill in the name of Jenkins and Company. Depones as to the tracing Hall, finding the goods, seizing him, the same as Williamson.

Joseph Mack, writer in Edinburgh, swears to the declaration of Mr Hall.

The proof being closed, the Solicitor-General summed up the evidence on the part of the Crown ; as did Mr Mackintosh, in a very able and judicious manner, for the Pannel : After which the prisoner delivered the following address to the Court.

My Lords, and Gentlemen of the Jury,

I have to intreat the indulgence of your Lordships, and you Gentlemen of the Jury, for the short address with which I shall trouble this Honourable Court. The unfortunate situation in which I stand will, I hope, apologize for the perturbation I feel ; and my incorrectness as a public speaker will, I flatter myself, meet with every indulgence from the candid and impartial. As an individual, I feel my insignificance : labouring under a charge of the most alarming import, I am depressed with my humiliating situation ; but when I consider for a moment the motives by which I have been actuated, the uprightness of my intentions, and my possessing such feelings as always have militated against deception and fraud, I rise superior to every alarming situation ; I no longer consider the consequences attendant on myself, but, untutored, submit to the strong impulses of nature ; and whilst I plead my own cause, defend that of my countrymen, the public, and posterity.

The relevancy of the indictment being admitted, it would be highly unbecoming in me, my Lords, to state any objection to its competency. All that remains is, to offer a few considerations, to clear myself from the
imputation

imputation of fraud, and in the most humble manner throw myself at the feet of your Lordships.

After the astonishing display of abilities exerted by the gentleman who has so ably espoused my cause, I fear my presumption in speaking is almost unpardonable; but when I consider my future welfare is at stake, that on the decision of this day depends what is infinitely more dear to me than life, it is impossible to suppress my feelings, or remain a silent spectator, whilst a business is agitated to me of the utmost importance.

Gentlemen of the Jury, From the very great attention you have given to the evidence that has come before you, I have no doubt but that you are fully convinced of its importance, whether considered as it affects commerce or the liberty of the subject. You are fully competent to determine the question, in point of law and of fact, and under the immediate direction of your Lordships, whose prevailing principles are universally beneficial to mankind, I shall receive the issue of this day with calmness and humility.

My Lords, may I be permitted to hope, that the calumny published in most of the newspapers will not operate against me in the minds of the Jury. They have charged me with being a Methodist Preacher, and keeper of an E. O. Table. But I call God to witness, that I despise the hypocrisy of the one, as much as the villany that attends the other; and I may challenge the world to prove, that at any one period my conduct has been such as to render me obnoxious, or an unworthy member of society.

That I have been unfortunate, and at times imprudent, I admit; but Heaven forbid that the crime of fraud should ever be attached to the unsuccessful, or felonious guilt to the want of œconomy.

However prejudicial it may be to individuals, to contract debts without being able at last to discharge them, I hope it will never be laid down as an axiom in law, to pursue

pursue criminally, where a civil process is more compatible with the constitution of the country.

And I believe I am the first man, conducting a regular business, under a fair open description, without either collusion or fraud, that ever experienced the dreadful appellation of Felon, and subject to punishment far more alarming than death.

I hope, Gentlemen of the Jury, such will be your discrimination, and such your verdict, this day, as will prevent in future unfortunate debtors being dragged before you as felons, and feeling all the alarming consequences that attend the midnight plunderer, or unprincipled impostor.

My Lords, It is with extreme reluctance I would deliver any opinion, or make use of arguments, unless they appeared well founded, and perfectly consonant to the known and established laws of this country. And I hope it will not be thought unbecoming, or too presuming in me, my Lords, to infer, that as my indictment is founded at common law, which does not admit of guilt by implication, or infer a fraudulent intention from a fair open transaction.

My Lords, Through the whole of the evidence that has been brought before your Lordships this day, I humbly hope, there is nothing but what shews the goods libelled in the indictment were purchased in a fair, open manner, and under a mercantile description: That regular bills of parcels were delivered with them; and the moment they were received in my shop, I humbly conceived they fulfilled the whole of the engagement attending the purchase.

I stand before your Lordships this day charged with the crimes of fraud and wilful imposition; not fraud by implication, but fraud actually committed at the different times specified in the indictment. Gentlemen of the Jury, Permit me to call your attention to the evidence brought before you this day; the whole
of

of which tends to shew that the goods were fairly purchased, fairly received into my shop, without the least fraud or collusion. My Lords, It is the province of fraud, to be persevering in acts of villany. With the avarice of a miser it extends its gripe; and whilst it possesses power, like Death, is insatiable.

No such behaviour, I flatter myself, has marked any part of my conduct. When in business, the very first week I expended L. 200 in purchasing L. 300 goods. I have bills of parcels in my hand, my Lords, to prove this assertion; and though occupying a shop in the most respectable situation, and with every eligible appearance to intitle me to credit in this extensive city, yet, strange as it may appear, my Lords, I opened an account but with four merchants for the purpose of buying goods, and even from one of these, the solicitation first began on his part, My Lords, and Gentlemen of the Jury, Does behaviour such as this denote fraud and imposition? will a conduct such as this intitle me to the appellation of a public impostor? Forbid it Heaven. Charity, the common principles of humanity, all conspire to prevent such a construction, which even the most tortured imagination would fail to invent. And, my Lords, I may likewise add, that I never wrote, or caused to be sent, but one letter, inclosing an order for goods, during the whole of my residence in this city.

Will this justify the assertion of my entering into business with a fraudulent intention? By my actions, my Lords, I am to be tried; and I must intreat the attention of the Gentlemen of the Jury to these facts, that I never wrote but one letter, or opened an account with more than four merchants, during my residence in Edinburgh.

My Lords, I am charged with substituting paper-parcels in imitation of real goods in my shop.

My Lords, I can venture to affirm, that it is a practice

tice universally adopted in England; and I have great reason to believe, that many shops in Scotland are not unacquainted with the custom: and no evidence has been brought before your Lordships that I made an improper use of them. I never went to a merchant boasting of these, as if they were so much real property, or invited credit upon any false or unjustifiable appearances; I am therefore at a loss to know the purport of those packages being libelled against me. As an Englishman, my Lords, and having legal possession of my house and shop for the purposes of trade and domestic œconomy, I always conceived myself master of the dwelling; and every idea recoils at the supposition, that I was not at liberty to give the best appearance I was able to my shop, without being amenable for my conduct to that legislature, which I am sure is equally watchful over the liberty as the property of individuals. My Lords, It is the pride of a Briton, that his house is his sanctuary; that the name of home includes every situation that can enliven or endear; and that in his domestic concerns, or disposal of his property, he is accountable to no one.

My Lords, That I left this country, I admit; but that I was impelled to the measure by the very embarrassed state of my circumstances, I hope will not be denied. My Lords, Relying fully on my partner Mr Jenkins that he would continue the business in the usual manner, I went to London with goods, for the sole purpose of making timely provision for the bills falling due; and though I have no evidence on this head, yet I trust the open direct road I took, and my continuing at a public inn, where the mail and other coaches belonging to this city put up, will speak more forcibly than any evidence that I can bring, that my intentions were honourable and fair.

My Lords, It is with the greatest submission I would wish to observe to the Gentlemen of the Jury, that
however

however competent they may be to determine on this cause, and however capable to decide respecting matters of law and fact, they have no clue to lead them, no criterion to enable them to judge of the intention and motives by which I have been impelled to act.

It is an attribute of the Deity, to know the thoughts of man; it is the province of Omnipotence, to enter the inmost recesses of the heart. On no one occasion does the law presume a criminal intention, but from the most permanent and solid basis, a transgression of its precepts. And as the indictment on which I am this day arraigned before your Lordships, expressly mentions, the obtaining goods by threats, stratagem, or device; and the inference is immediately drawn, of a fraudulent intention from the unjustifiable method of obtaining them.

May I be permitted to hope, my Lords, that the obtaining of goods by stratagem, fraud, or device, has not been proved against me; and as they have failed to establish the very basis on which the prosecution is founded, in the most humble manner I submit to your Lordships, that the inference of a criminal and fraudulent intention cannot, in the most distant manner, be the conclusion.

My Lords, I flatter myself, that during my residence in this city, nothing exceptionable can be laid to my charge. I was not ambitious of forming connections, or by extravagance and folly squandered away the property of my creditors. Happy even in obscurity, I hoped, by industry and attention, to acquire a situation that would be permanent, and afford me a decent support. But, however sanguine my expectations, I have experienced the dreadful reverse! and not only lost the little property I possessed, but have been deprived of liberty, branded with the odious appellation of felon, and rendered obnoxious to society.

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But,

But, my Lords, I yet feel a support within. Conscious of my innocence, I am a stranger to the perturbation arising from guilt, and the corroding anxiety of a troubled conscience. But it remains for you, Gentlemen of the Jury, to distinguish the artful designing impostor from the unsuccessful debtor; and such, I hope, will be your verdict this day, as to give security to yourselves and fellow-citizens, and prevent the dangerous precedent from being established, of making debtors amenable to the criminal laws of this country.

Gentlemen of the Jury, As merchants, as tradesmen, and as men warmed with humanity, I make my appeal; and I shall not repine at the long imprisonment which I have suffered, the loss of fame, reputation, and property, if the issue of this day tends to establish the permanency of your civil laws, the security of your persons, and to check the merciless rage of unrelenting creditors.

Gentlemen of the Jury, To your own feelings I refer you for approbation; and whilst posterity applaud your impartiality and integrity, the recollection, that you have saved from impending ruin, an unfortunate, but I hope, not depraved individual, will afford you consolation when all human support fails, and the power of prejudice is no more.

My Lords, I cannot retire from the presence of your Lordships, without making my warmest acknowledgements for the impartiality and candour I have experienced this day; and surely, if benevolence and humanity claim the most impassioned regard, let me intreat your Lordships not to think that any act of mercy exercised towards me will dissipate in air. No, my Lords, the recording angel will register this act of kindness; whilst my heart, glowing with sensibility, will for ever feel the weight of the obligation, and my future conduct, I hope will prove, that mercy has not been improperly bestowed at the expence of justice.

My

My Lords, I throw myself on the benevolence and humanity of your Lordships and this Honourable Court.

THOMAS HALL.

At the beginning of this address Mr Hall appeared much embarrassed and confused, but soon got the better of his timidity, and his behaviour and manner of delivery was highly proper; and on his appeal to the Jury he spoke with much sensibility and feeling. Thereafter the Lord Justice-Clerk gave his charge to the Jury in a very candid and impartial manner; and the Jury having inclosed, and made choice of their Chancellor and Clerk, they returned the following verdict next day at two o'clock.

Edinburgh, 9th February 1789.

Having considered the Indictment raised and pursued at the instance of Ilay Campbell, Esq; his Majesty's Advocate, for his Majesty's interest, as restricted by the prosecutor, the interlocutor of relevancy pronounced thereon, the proof for the prosecutor, and proof adduced in exculpation, and whole procedure; they all in one voice find the libel proven. In witness whereof, the said Chancellor and Clerk have subscribed the same in their name, and by their appointment, &c.

The same being read in Court, Mr Charles Hay, as counsel for the Pannel, rose and craved an arrest of judgement, on account of the informality of the verdict, which he observed, could not apply to the prisoner at the bar, his name not being mentioned in the whole of it; upon which their Lordships ordered counsel to be heard on both sides, and appointed Friday the 13th for that purpose. And accordingly, on the 13th, the prisoner appeared at the bar, with the Honourable Henry Erskine, and Mr Mackintosh, Advocates, as his counsel,

counsel, who both, in a very able manner, stated their objections; and the Dean of Faculty, in his usual elegant, brilliant, and forcible language, created a good deal of laughter in the house. They, amongst other arguments, alledged, that a verdict, such as the one returned, in which the name of the prisoner was not ingrossed, could not possibly apply to the prisoner, for in fact it was no better than a piece of blank paper. And, on the other hand, the Lord Advocate and Mr Archibald Campbell, as counsel for the Crown, contended, That the verdict, when taken by itself, was indeed defective, but when connected with the indictment, the interlocutor, relevancy, and the remit to the assize, which immediately preceded it in the record, it certainly was perfectly explicit, and could apply to no other person than the prisoner.

Some of the Judges wishing to take the same into consideration, the Court adjourned to Monday the 16th February; when they met, and severally gave their judgement in the following manner: Lord Hailes, Lord Eskgrove, and Lord Swinton, were for sustaining the objection; and the Lord Justice Clerk and Lord Stonefield were for repelling the same. The majority of their Lordships being for sustaining the objection, Mr Hall was dismissed from the bar.

Immediately after this judgement was pronounced, the Lord Advocate presented a petition to the Court, praying that Mr Hall might be recommitted to prison, and again tried by the same Court, or prosecuted as a fraudulent bankrupt. Upon which their Lordships accordingly granted warrant, and Mr Hall was recommitted to prison.

F T N I S.